

PART I – THE SCHEDULE

SECTION B – SUPPLIES OR SERVICES AND PRICES/COSTS

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SECTION B

SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 TYPE OF CONTRACT – ITEMS BEING ACQUIRED

- (a) Contract Type. This is a cost-plus-incentive fee (CPIF) contract for the closure of the Hanford Site River Corridor (RC) that includes cost performance and schedule performance incentives. Incentives are structured to provide a strong financial motivation for the Contractor to achieve a safe and efficient closure of the RC.
- (b) Item(s) Being Acquired. The Contractor shall, in accordance with the terms of this Contract, provide the personnel, materials, supplies, and services (except as expressly set forth in this Contract as Government-Furnished Services and Information) and otherwise do all things necessary and incident to the integrated closure of the RC.
- (c) Contract Line Items. Except as provided in paragraph (d) below, for purposes of the Target Cost, Target Fee, cost collection, reporting, work authorization, and administration of the Contract incentive fee structure, the Contract consists of three Contract Line Items:
 - (1) Contract Line Item Number 1 (CLIN 1): All Contract scope (except for the Contract Scope identified as CLIN 2 and CLIN 3) as described in Section C, *Statement of Work*; and authorized at Contract award as shown in Table C.2, *River Corridor Contract Line Item*.
 - (2) Contract Line Item Number 2 (CLIN 2): 300 Area Contract scope for the Pacific Northwest National Laboratory (PNNL)-Occupied and Supporting Facilities identified as Activities 4, 6, 7, 10, and 11, as described in Section C, *Statement of Work*; and as may be authorized under the Section B clause entitled *DOE Authorization of CLIN 2 and CLIN 3*.
 - (3) Contract Line Item Number 3 (CLIN 3): 600 Area Contract scope for the 618-10 and -11 burial grounds identified as Activities 6, 7, 10, and 11, as described in Section C, *Statement of Work*; and as may be authorized under the Section B clause entitled *DOE Authorization of CLIN 2 and CLIN 3*.

Table C.2, *River Corridor Contract Line Item Summary*, provides a summary on how each of the eleven major activities described in Section C, *Statement of Work*, are allocated to CLIN 1, CLIN 2, and CLIN 3. The Contractor shall complete all Contract Requirements for CLIN 1 and, upon DOE authorization, shall complete all Contract Requirements for CLIN 2 and/or CLIN 3.

- (d) Pension Cost of Incumbent Employees. The Estimated Pension Cost of Incumbent Employees, ("incumbent employees" are defined in the Section H clause entitled *Pay and Benefits*) is shown on Table B.1, *Incentive Fee Structure*. The pension cost of incumbent employees is excluded from both the target cost and target fee amounts. Accordingly, such reasonable, allowable and allocable pension costs for incumbent employees will be reimbursed on a cost, no fee, basis. In addition, such costs will be excluded from all Cost Performance Incentive Fee payments and calculations under Section B and elsewhere in this contract. The Contractor understands, however, that the pension cost for incumbent employees will not be separately funded and is included in the funding amounts shown in the Funding Profile, Section J, Attachment J-11, entitled *RCC Funding Profile*.

B.2 OBLIGATION AND AVAILABILITY OF FUNDS

- (a) Pursuant to the Section I clause entitled Limitation of Funds, total funds in the amount of \$5,000,000 have been allotted for obligation and are available for payment for services provided from the effective date of this Contract through the period estimated to end June 30, 2005.
- (b) Except as may be specifically provided in the Section I clause entitled *Nuclear Hazards Indemnity Agreement*, the duties and obligations of the U.S. Department of Energy (DOE) hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the U.S. Congress that DOE may legally spend for such purposes.

B.3 ALLOWABILITY OF SUBCONTRACTOR FEE

- (a) If the Contractor is part of a teaming arrangement as described in Federal Acquisition Regulation (FAR) 9.601, the team shall share in this Contract fee structure. Separate additional subcontractor fees for individual team members will not be considered an allowable cost under the Contract. If a subcontractor, supplier, or lower-tier subcontractor is a wholly owned, majority owned, or affiliate of any team member, any fee or profit paid to such entity will not be considered an allowable cost under this Contract.
- (b) The subcontractor fee restriction in subsection (a) does not apply to members of the Contractor's team that are: (i) small business(es); (ii) Protégé firms as part of an approved Mentor-Protégé relationship under the Section H clause entitled Mentor-Protégé Program; (iii) subcontractors under a competitively awarded firm-fixed price or firm-fixed unit price subcontract; or (iv) commercial items as defined at FAR 2.101.

B.4 INCENTIVE FEE STRUCTURE

- (a) "Completion of Contract Requirements" is defined as performance of all requirements described in this Contract (except those requirements customarily reserved for Contract closeout and final payment) on or before September 30, 2015. Completion of Contract Requirements is a condition precedent to earning any of the Group A and Group B incentive fee under Clause B.7(c) and (d).
- (b) Table B.1, *Incentive Fee Structure*, sets forth the Cost Performance Incentive Fee (including Target Cost, Target Fee, and Cost Share Ratio); Schedule Performance Incentive Fee; Maximum Incentive Fees, and Minimum Incentive Fees that can be earned under the Contract. The Cost Performance Incentive Fee and Schedule Performance Incentive Fees are each divided into three components: CLIN 1; CLIN 2; and CLIN 3.

B.5 CHANGES TO TARGET COST, TARGET FEE, AND SCHEDULE

- (a) General Requirements.
 - (1) Changes to Target Cost, Target Fee, and Schedule.
 - (i) The Contractor shall take all reasonable steps to manage, prevent, and mitigate changes to Target Cost, Target Fee, and Schedule. DOE does not anticipate any point of complete redetermination of Target Cost, Target Fee, and Schedule during the period of performance of the Contract.

- (ii) Changes to Target Cost, Target Fee, and Schedule will be made in accordance with the Section I Clause entitled *Changes - Cost Reimbursement - Alternate I*, and the Section I Clause entitled *Differing Site Conditions*. The *Project Baseline*, described in Section C.5, *Project Management*, shall be based on the Target Cost, Target Fee, and Schedule. The submission of the *Project Baseline*, described in Section C.5, *Project Management*, does not result in a redetermination of Target Cost, Target Fee, and Schedule.
 - (iii) Any circumstance that the Contractor expects to be the subject of a request for a change and/or an equitable adjustment to the Target Cost, Target Fee, and/or Schedule shall be shown in the *Monthly Performance Report* (Deliverable C.5.4.2). Only DOE-approved changes to Target Cost, Target Fee, and Schedule shall be incorporated into the *Project Baseline*. The Contractor shall maintain internal consistency between the *Project Baseline*, Target Cost, and Schedule at all times during the Contract period of performance.
- (2) Differing Site Conditions. Requests for an equitable adjustment that are a result of differing site conditions will be evaluated in accordance with the Section I clause entitled *Differing Site Conditions*, for:
 - (i) A material variation in quantities, defined as 15 percent above any of the "Quantity" entries established in Table B.2, Schedule of Quantities and Target Cost; and/or
 - (ii) A material difference in subsurface, latent, and/or unknown physical conditions, defined as a change in physical conditions that increase cost 15 percent above any of the "Total Target Cost" entries established in Table B.2, Schedule of Quantities and Target Cost.

Any equitable adjustment will be made only for the amounts above the 15 percent quantity and/or cost variations.

In addition to requirements under the Section I Clause entitled *FAR 52.243-2 Changes – Cost Reimbursement - Alternate I* and any other applicable terms of this Contract, the Contractor shall maintain a system to segregate and account for actual quantities and costs for each "Quantities" and "Total Target Cost" entry. This system shall provide traceable and verifiable records of actual quantities and actual costs based on work performance to substantiate any request for equitable adjustment due to Differing Site Conditions..

(b) DOE Responsibilities.

- (1) Funding. DOE intends to obligate funding to the Contract in accordance with the funding profile contained in Section J, Attachment J-11, entitled *RCC Funding Profile*. DOE will have conformed to the funding profile if two conditions are met: 1) a minimum of 95 percent of the cumulative annual funding is obligated through the current year of Contract performance; and 2) a minimum of 90 percent of the annual funding is obligated in the current year of Contract performance. DOE will consider a request for an equitable adjustment to the Target Cost, Target Fee, and/or Schedule if DOE does not obligate funding in accordance with the funding profile within the parameters detailed above. DOE reserves the right to make a unilateral decision to reduce the funding obligation without an equitable adjustment to Target Cost, Target Fee, and/or Schedule if

DOE does not authorize CLIN 2 and/or CLIN 3 under the Section B Clause entitled *DOE Authorization of CLIN 2 and CLIN 3*.

- (2) Government-Furnished Services and Information (GFS/I). DOE intends to provide GFS/I in accordance with Section C.4, *Government-Furnished Services and Information (GFS/I)*.
 - (3) DOE Directed Scope Changes. DOE may change, add, and/or delete RC scope in the Contract shown in Section C, *Statement of Work*. DOE will make these scope changes in accordance with the Section I clause entitled *Changes*, and make any adjustment to Target Cost, Target Fee, and Schedule in accordance with Clause B.5, *Changes to Target Cost, Target Fee, and Schedule*.
- (c) Contractor Responsibilities.
- (1) Regulatory Assumptions. To the extent that the Contractor's Target Cost assumed a change to the regulatory approach established in existing NEPA documentation prepared in support of the RC, the Tri-Party Agreement, all interim Records of Decision (ROD) for the RC, and/or all existing regulatory and supporting documentation, failure to obtain the assumed change to the regulatory approach shall not be a basis for equitable adjustment to the Target Cost, Target Fee, and Schedule.
 - (2) Transition. During Transition, the Contractor shall identify any material differences in the actual status of completed work compared to the projected status established in Section J, Attachment J-1, *Table of River Corridor Closure Contract Workscope*. Following completion of Transition, there is no basis for an equitable adjustment to Target Cost, Target Fee, and Schedule for status of completed work. The limitation does not apply to other bases for equitable adjustment to the Target Cost, Target Fee, and Schedule.
 - (3) Labor Costs. The Target Cost includes a projection of all Contract labor costs through the period of performance of this Contract. Labor rate increases mandated under the Hanford Site Stabilization Agreement, Service Contract Act, Davis-Bacon Act, or any other Contract labor rate requirements shall not be a basis for equitable adjustment to the Target Cost, Target Fee, and/or Schedule.
 - (4) Contractor Performance. The Contractor is responsible for total performance under this Contract, including selecting the specific approaches and methods to perform all work. For all Contract work within the control of the Contractor, the consequences of any adverse Contractor work performance, and the consequences of any regulatory actions in response to adverse Contractor work performance, shall not be a basis for equitable adjustment to the Target Cost, Target Fee, and Schedule.
 - (5) Site Investigation. The Contractor shall complete an evaluation of the available RC information, as required by the Section I clause entitled *Site Investigation and Conditions Affecting the Work*.

B.6 INCENTIVE FEE CALCULATION

The Cost Performance and Schedule Performance Incentive Fees are calculated independently. The total earned incentive fee is calculated as the total of the earned Cost Performance Incentive Fee (calculated in accordance with Section B and the Section I clause entitled *FAR 52.216-10*

Incentive Fee) and the earned Schedule Performance Incentive Fee (calculated in accordance with Section B), less any fee reductions from:

- (a) Section B clause entitled *DEAR 970.5215-3 Conditional Payment of Fee, Profit, and Other Incentives*;
- (b) Section B clause entitled *Hanford Site-Specific Requirements for Conditional Payment of Fee, Profit, and Other Incentives*;
- (c) Section B clause entitled *Implementation of Conditional Payment of Fee Reductions*;
- (d) Section B clause entitled *Final Fee Determination*;
- (e) Section E clause entitled *FAR 52.246-5 Inspection of Services – Cost Reimbursement*;
- (f) Section E clause entitled *Field Inspection*;
- (g) Section H clause entitled *Key Personnel*;
- (h) Section H clause entitled *Small Business Subcontracting Fee Reduction*;
- (i) Section I clause entitled *FAR 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity*;
- (j) Section I clause entitled *FAR 52.215-11 Price Reduction for Defective Cost or Pricing Data - Modifications*;
- (k) Section I clause entitled *FAR 52.215-13 Subcontractor Cost or Pricing Data - Modifications*;
- (l) Section I clause entitled *FAR 52.243-2 Changes – Cost Reimbursement – Alternate I*; and
- (m) Any other applicable clause of this Contract that provides for fee decrements where appropriate.

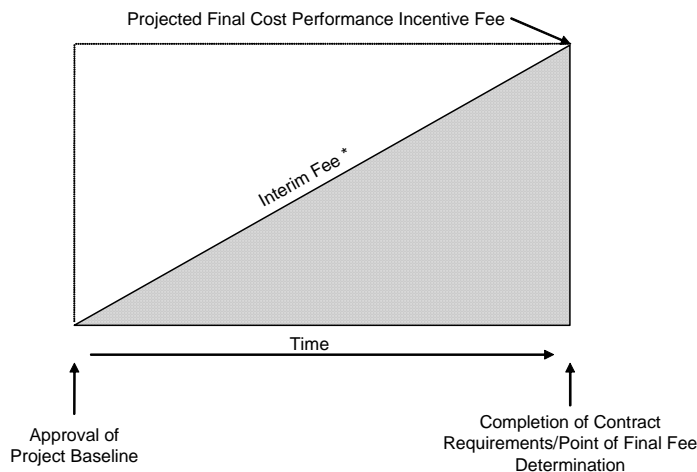
B.7 INCENTIVE FEE PAYMENTS

- (a) Definition of Terms.
 - (1) *Schedule Performance Incentive Fee* is fee based on completion of specific schedule milestones. Schedule Performance Incentive Fee is fee payable and final upon achievement of the applicable milestone(s) at Completion of Contract Requirements as shown in *Table B.1 – Incentive Fee Structure*; however, Schedule Performance Incentive Fee is subject to fee reduction(s) as set forth in Clause B.6, *Incentive Fee Calculation*.
 - (2) *Cost Performance Incentive Fee* is fee based on the relationship of allowable cost to Target Cost.
 - (3) *Interim Fee* is the given level of Cost Performance Incentive Fee at a point in time (based on cost and schedule performance) that is in proportion to the projected Final Cost Performance Fee earnings.

- (4) *Interim Fee Payments* are the payments provided during Contract performance for Group B and Group C Interim Fee.
 - (5) *Project Baseline* is the integrated Contractor-prepared scope, schedule and cost baseline, and is formally documented and controlled as specified in Section C, Statement of Work. The Project Baseline provides the basis for tracking cost and schedule performance, and measuring project earned value.
 - (6) *Performance Milestone* is a single milestone within each quarter in the *Project Baseline* that represents completion of a significant, measurable, critical-path work activity in accordance with the requirements of the Contract. The purpose of the *Performance Milestone* is to establish one of the two conditions precedent to receiving Interim Fee as described in this Clause, *Incentive Fee Payment*. DOE will approve each *Performance Milestone* and any changes to a *Performance Milestone*.
 - (7) *Budgeted Cost of Work Scheduled (BCWS)* is the sum of the Target Cost elements for work planned, measured cumulative to-date.
 - (8) *Budgeted Cost of Work Performed (BCWP)* is the sum of the Target Cost elements for work completed, measured cumulative to-date that relates directly to the BCWS.
 - (9) *Actual Cost of Work Performed (ACWP)* is the sum of allowable costs for work completed, measured cumulative to-date that relates directly to the BCWP.
 - (10) *Schedule Performance Index (SPI)* is BCWP divided by BCWS.
 - (11) *Cost Performance Index (CPI)* is BCWP divided by (ACWP minus Incumbent Employee Pension Costs).
 - (12) *Cost and Schedule Performance Index (CSPI)* is $\frac{1}{2} \times (CPI + SPI)$, measured by quarter and cumulative to-date.
- (b) Invoices for Interim Fee Payments. The Contractor may submit quarterly invoices for Interim Fee Payments following the submittal of the three Monthly Performance Reports for the quarter described in Section C, *Statement of Work*, per the process described in subparagraph (c) below.
- (c) Interim Fee Determination and Interim Fee Payment Process.
- (1) Prior to the Final Fee Determination as described in Clause B.12, a portion of interim Cost Performance Incentive Fee will be paid as "Interim Fee Payments" during the period of performance of the Contract, subject to other limitations set forth in this Contract Section B. Interim Fee and Interim Fee Payments apply only to Cost Performance Incentive Fee.
 - (2) The CSPI will be used to determine the amount of Interim Fee.
 - (3) Subsequent to Contract award, the Contracting Officer will develop (and modify as required) an *Interim Fee Profile* as Figure B.2 that links the CSPI described in Subparagraph B.7(a)(12) with corresponding Interim Fee amounts. The *Interim Fee Profile* will provide quarterly Interim Fee amounts that are calculated as the total approved Target Fee divided by 44 quarters.

- (4) The quarterly Interim Fee determination amount for each calendar quarter shall be the Cumulative Quarterly Target Fee times the cumulative CSPI minus the prior cumulative Interim Fee determination amount. The Interim Fee is intended to represent the to-date proportion of Cost Performance Incentive Fee that would be earned at the level of projected final Cost Performance Incentive Fee as measured by the CSPI.

Figure B.1.1 – Cost Performance Incentive – Interim Fee



* Cumulative Proportional Amount of Projected Final Cost Performance Incentive Fee

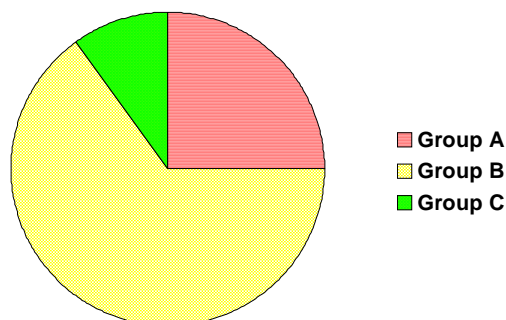
- (5) Once the quarterly Interim Fee is determined, it will be divided into Groups A, B, and C, as follows:

Group A – 25% of Total Interim Fee and is the portion of Interim Fee for which payment will be made after the Final Fee Determination.

Group B – 65% of Total Interim Fee and is the portion of Interim Fee for which payment is made on a quarterly basis, but is subject to the reimbursement provisions of Clause B.12, *Final Fee Determination*.

Group C – 10% of Total Interim Fee and is the portion of Interim Fee for which payment is made on a quarterly basis, and is not subject to the reimbursement provisions of Clause B.12, *Final Fee Determination*.

Figure B.1.2 – Interim Fee Proportions by Group



- (6) Prior to the Final Fee Determination, all three Interim Fee groups are subject to fee reduction(s) as set forth in Clause B.6, *Incentive Fee Calculation*.
 - (7) DOE will make quarterly invoice payments for Group B and Group C Interim Fee, within 30 days of receipt of a quarterly fee invoice, for the quarterly calendar periods ending March 31, June 30, September 30, and December 31, subject to the Contractor successfully achieving two conditions precedent:
 - (i) Meeting the current and all prior quarterly *Performance Milestones* designated by the Contracting Officer in the DOE-approved *Project Baseline*; and
 - (ii) Maintaining a cumulative-to-date CSPI of 0.925 or greater.
- DOE will make Group B and Group C Interim Fee payments each quarter that the Contractor successfully achieves the two conditions precedent. DOE will not make any Interim Fee payments in a quarter that Contractor does not successfully meet the two conditions precedent, and will not make any Interim Fee payments in future quarters until the Contractor performance successfully achieves the two conditions precedent. If the Contractor successfully achieves the two conditions precedent in a future quarter, DOE will make Group B and Group C Interim Fee payments in that quarter, and the Contractor may invoice for the cumulative-to-date Group B and Group C Interim Fee as part of the quarterly fee invoice. All quarterly Interim Fee payments are subject to reduction as described in Subsections B.6 and B.7(d).
- (8) All payments for Group B and Group C Interim Fee will be on a cumulative to-date basis, which is determined by the current quarter cumulative-to-date minus the prior quarter cumulative-to-date.
 - (9) The Contractor shall submit fee invoices separate from cost invoices.

Figure B.2 Interim Fee Profile

Calendar Yr (a)	Cldr Qtr (b)	Qtr # (c)	Target Fee Per Qtr (d)	Cumulative Quarterly Target Fee Col. (c) × (d) (e)	Cumulative CSPI (f)	Total Cumulative Interim Fee Col. (e) ÷ (f) (g)
2004	4	1	\$TBD	\$TBD	TBD	\$TBD
2005	1	2	\$TBD	\$TBD	TBD	\$TBD
2005	2	3	\$TBD	\$TBD	TBD	\$TBD
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2015	3	44	\$TBD	\$TBD	TBD	\$TBD

(d) Adjustments to Interim Fee Payments.

- (1) Withholding of Interim Fee Payments. If the Contractor demonstrates performance that in the sole judgment of the Contracting Officer has a detrimental effect on total Contract performance, the Contracting Officer reserves the right to withhold Interim Fee Payments. The Contracting Officer may also apply appropriate fee reductions or withholdings to subsequent Interim Fee Payments, provided such fee adjustments are identified in writing to the Contractor within 6 months of the date of the event or incident occurrence.
- (2) Release of Withheld Interim Fee Payments. The Contracting Officer may release withheld Interim Fee Payments pursuant to Subparagraph B.7(d)(1) when the Contractor demonstrates that the condition leading to the withholding was corrected. For example, a withheld fee resulting from unacceptable cost or schedule performance may be paid to the Contractor when the Contractor recovers, which is defined as acceptable cost and/or schedule performance at the end of two consecutive quarters. The Contractor is not entitled to any interest on withheld payments.

(e) Bankruptcy or Other Issues with Guarantor Company(ies). In order to assure the Contractor's ability to repay any Interim Fee Payments that are determined to be in excess of the actual fee earned at the Completion of Contract Requirements, the Contracting Officer reserves the right to discontinue Interim Fee payments, in the event that a guarantor company files bankruptcy or is acquired by other owners, or other events arise with the Contractor's guarantor company(ies) that jeopardizes DOE's ability to recover excess Interim Fee Payments.

(f) Repayment of Bankruptcy Reserve. In the event of a bankruptcy or acquisition by other owner (Subparagraph B.7(e)), the Contractor shall within 60 days after the event, provide evidence satisfactory to the Contracting Officer that the bankruptcy or change in ownership does not affect the ability of the Contractor to continue to perform the obligations under the Contract, or affect a material Governmental or DOE interest. Upon receipt of such evidence, the Contracting Officer shall resume making payments of fee unreduced because of the events in Subparagraph B.7(e), and shall release all fee payments withheld due to events described in Subparagraph B.7(e) during the preceding 60 days.

**B.8 DEAR 970.5215-3 CONDITIONAL PAYMENT OF FEE, PROFIT, AND OTHER INCENTIVES
(JAN 2004) – ALTERNATE I (JAN 2004)**

(a) General.

- (1) The payment of earned fee, fixed fee, profit, or share of cost savings under this Contract is dependent upon the Contractor's or Contractor employees' compliance with the terms and conditions of this Contract relating to environment, safety and health (ES&H), which includes worker safety and health (WS&H), including performance under an approved Integrated Safety Management System (ISMS).
- (2) The ES&H performance requirements of this Contract are set forth in its ES&H terms and conditions, including the DOE approved Contractor ISMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS and full ES&H compliance.
- (3) If the contractor does not meet the performance requirements of this contract relating to ES&H during any performance evaluation period established under the Contract pursuant to the clause of this contract entitled, "Total Available Fee: Base Fee Amount and Performance Fee Amount," otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by the Contracting Officer.

(b) Reduction Amount.

- (1) The amount of earned fee, fixed fee, profit, or share of cost savings that may be unilaterally reduced will be determined by the severity of the performance failure pursuant to the degrees specified in Paragraph (c) of this clause.
- (2) If a reduction of earned fee, fixed fee, profit, or share of cost savings is warranted, unless mitigating factors apply, such reduction shall not be less than 26% nor greater than 100% of the amount of earned fee, fixed fee, profit, or the Contractor's share of cost savings for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure.
- (3) In determining the amount of the reduction and the applicability of mitigating factors, the Contracting Officer must consider the Contractor's overall performance in meeting the ES&H requirements of the Contract. Such consideration must include performance against any site-specific performance criteria/requirements that provide additional definition, guidance for the amount of reduction, or guidance for the applicability of mitigating factors. In all cases, the Contracting Officer must consider mitigating factors that may warrant a reduction below the applicable range (see 48 CFR 970.1504-1-2). The mitigating factors include the following:
 - (i) Degree of control the Contractor had over the event or incident.
 - (ii) Efforts the Contractor had made to anticipate and mitigate the possibility of the event in advance.
 - (iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.

- (iv) General status (trend and absolute performance) of ES&H and compliance in related areas.
 - (v) Contractor demonstration to the Contracting Officer's satisfaction that the principles of industrial ES&H standards are routinely practiced (e.g., Voluntary Protection Program Star Status, or ISO 14000 Certification).
 - (vi) Event caused by "Good Samaritan" act by the Contractor (e.g., offsite emergency response).
 - (vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain ES&H performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, ES&H programs).
 - (viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in ES&H by use of lessons-learned and best practices inter- and intra-DOE sites.
- (4)
- (i) The amount of fee, fixed fee, profit, or share of cost savings that is otherwise earned by a Contractor during an evaluation period may be reduced in accordance with this clause if it is determined that a performance failure warranting a reduction under this clause occurs within the evaluation period.
 - (ii) The amount of reduction under this clause, in combination with any reduction made under any other clause in the Contract, shall not exceed the amount of fee, fixed fee, profit, or the Contractor's share of cost savings that is otherwise earned during the evaluation period.
 - (iii) The evaluation period shall mean the amount determined by the Contracting Officer or fee determination official as otherwise payable based on the Contractor's performance during the evaluation period. Where the Contract provides for financial incentives that extend beyond a single evaluation period, this amount shall also include: any provisional amounts determined otherwise payable in the evaluation period; and, if provisional payments are not provided for, the allocable amount of any incentive determined otherwise payable at the conclusion of a subsequent evaluation period. The allocable amount shall be the total amount of the earned incentive divided by the number of evaluation periods over which it was earned.
 - (iv) The Government will effect the reduction as soon as practicable after the end of the evaluation period in which the performance failure occurs. If the Government is not aware of the failure, it will effect the reduction as soon as practical after becoming aware. For any portion of the reduction requiring an allocation, the Government will effect the reduction at the end of the evaluation period in which it determines the total amount earned under the incentive. If at any time a reduction causes the sum of the payments the Contractor has received for fee, fixed fee, profit, or share of cost savings to exceed the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned (provisionally or otherwise), the Contractor shall immediately return the excess to the Government.

(What the Contractor "has earned" reflects any reduction made under this or any other clause of the Contract.)

- (v) At the end of the Contract:
 - (A) The Government will pay the Contractor the amount by which the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned exceeds the sum of the payments the Contractor has received; or
 - (B) The Contractor shall return to the Government the amount by which the sum of the payments the Contractor has received exceeds the sum of fee, fixed fee, profit, or share of cost savings the Contractor has earned. (What the Contractor "has earned" reflects any reduction made under this or any other clause of the Contract.)
- (c) Environment, Safety and Health (ES&H). Performance failures occur if the Contractor does not comply with the Contract's ES&H terms and conditions, including the DOE approved Contractor ISMS. The degrees of performance failure under which reductions of earned or fixed fee, profit, or share of cost savings will be determined are:
 - (1) First Degree: Performance failures that are most adverse to ES&H. Failure to develop and obtain required DOE approval of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the Contractor's ISMS. The following performance failures or performance failures of similar import will be considered first degree:
 - (i) Type A accident (defined in DOE Order 225.1A).
 - (ii) Two Second Degree performance failures during an evaluation period.
 - (2) Second Degree: Performance failures that are significantly adverse to ES&H. They include failures to comply with an approved ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. They also include breakdowns of the Safety Management System. The following performance failures or performance failures of similar import will be considered second degree:
 - (i) Type B accident (defined in DOE Order 225.1A).
 - (ii) Non-compliance with an approved ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.
 - (iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the Contract.
 - (3) Third Degree: Performance failures that reflect a lack of focus on improving ES&H. They include failures to comply with an approved ISMS that result in potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:

- (i) Failure to implement effective corrective actions to address deficiencies/non-compliances documented through: external (e.g., Federal) oversight and/or reported per DOE Order 232.1A requirements; or internal oversight of DOE Order 440.1A requirements.
- (ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant programmatic breakdown.
- (iii) Non-compliances that either have, or may have, significant negative impacts to the worker, the public, or the environment or that indicate a significant programmatic breakdown.
- (iv) Failure to notify DOE upon discovery of events or conditions where notification is required by the terms and conditions of the Contract.

B.9 HANFORD SITE-SPECIFIC REQUIREMENTS FOR CONDITIONAL PAYMENT OF FEE, PROFIT, AND OTHER INCENTIVES

The Third Degree performance failures described in this clause supplement the Section B clause entitled *Conditional Payment of Fee, Profit, and Other Incentives* by establishing specific Hanford Site Environment, Safety, Quality, and Health (ESQH) performance criteria and requirements. Failure to meet the performance criteria contained in this clause will be processed in accordance with the Section B clause entitled *Conditional Payment of Fee, Profit, and Other Incentives*.

- (a) Failure to report accurate data necessary to demonstrate regulatory compliance to enforceable regulations.
- (b) OSHA Total Recordable Case Rate. Two consecutive quarters that the quarterly average exceeds 1.9 cases/200,000 hours.
- (c) OSHA Lost Work Day (Days Away from Work, or Restricted Work Days, or both) Case Rate. Two consecutive quarters that the quarterly average exceeds 0.8 cases/200,000 hours.
- (d) Control of Radioactive Contamination.
 - (1) An event resulting in the loss of control of radioactive material to the public exceeding 20 times 10 CFR 835, Appendix E, values.
 - (2) An event resulting in the estimated loss, damage and/or clean-up to property exceeding \$250,000.
 - (3) One or more occurrences in any 12-month period resulting in the skin contamination of 5 or more individuals at a level exceeding the total contamination limits identified in 10 CFR 835, Appendix D.
 - (4) A single event in which 5 or more individuals or 5 or more events in any 12-month period in which 1 or more individuals exceed confirmed internal depositions greater than 100 mRem.
 - (5) Multiple radiological events at one or more facilities that in aggregate indicate a significant loss of radiological control.
- (e) Control of Radiation Exposure.

- (1) Radiation exposure to an individual exceeding 2.0 rem total effective dose equivalent in a year without prior DOE approval, or exposure to an individual exceeding any of the limits of 10 CFR 835.202, 835.206, 835.207, or 835.208.
- (2) Three or more individuals exceed confirmed internal depositions greater than 1.0 rem CEDE in any 12-month period.
- (f) Technical Safety Requirements/Operational Safety Requirement Violation. Greater than 3 incidents at an individual nuclear facility/activity or greater than 10 incidents overall in any 12-month period.
- (g) Positive Unreviewed Safety Question Determinations Not Self-Identified. Greater than 1 incident at an individual nuclear facility/activity or greater than 3 incidents overall in any 12-month period.
- (h) Transportation Safety. Two or more events, as defined by DOE M 231.1-2, Group 8, Criteria 1, 2, or 3 in any 12-month period.

B.10 IMPLEMENTATION OF CONDITIONAL PAYMENT OF FEE REDUCTIONS

- (a) For purposes of Conditional Payment of Fee, the amount of cost performance incentive fee to be allocated to each 3-month period shall be equal to the average quarterly Target Fee that is available or otherwise payable during the entire term of the Contract, multiplied by four. This allocation of Target Fee for a 12-month period constitutes the total amount of fee that is subject to reduction in a period in which a performance failure occurs, except during the last 12-month period of the Contract when any earned schedule performance incentive fee is also subject to reduction herein. This amount may be combined with any fee reductions made under any other clause in the Contract that provides for a reduction to the fee, but shall not exceed the amount of the total Interim Fee in the period established pursuant to this Clause.
- (b) In implementation of the Section B clause entitled *Conditional Payment of Fee, Profit, and Other Incentives*, the Manager, U.S. Department of Energy, Richland Operations Office (RL) or designee, may make a unilateral determination to reduce the fee at his/her sole discretion, by an amount up to the fee for the 12-month period as herein determined.
- (c) In implementing DEAR 970.5215-3 *Conditional Payment of Fee, Profit, and Other Incentives*:
 - (1) The term therein "earned fee, fixed fee, profit, or share of cost savings" means Interim Fee or Final Fee as applied in this Contract.
 - (2) The implementation of ES&H performance requirements and any resultant fee reductions is governed by this Section B, not the referenced clause entitled "Total Available Fee: Base Fee Amount and Performance Fee Amount" which is not a part of this Contract.

B.11 DOE AUTHORIZATION OF CLIN 2 AND CLIN 3

- (a) CLIN 2: DOE will evaluate the readiness to vacate the 300 Area facilities occupied by PNNL. Based on the results of the DOE evaluation, DOE will make a unilateral decision to: 1) authorize the Contractor to proceed with the CLIN 2 Contract requirements; or 2) direct the Contractor to not proceed with the CLIN 2 Contract requirements.
- (b) CLIN 3: DOE will evaluate the *600 Area Remediation Design Solution* (Deliverable C.2.2.2). Based on the results of the DOE evaluation, DOE will make a unilateral

decision to: 1) authorize the Contractor to proceed with the CLIN 3 Contract requirements; or 2) direct the Contractor to not proceed with CLIN 3 Contract requirements.

- (c) If DOE authorizes the Contractor to proceed with CLIN 2 and/or CLIN 3 Contract requirements, the Total Target Cost and Target Fee will include CLIN 2 and/or CLIN 3 Contract requirements, and the Total Target Cost and Target Fee will be administered as a single Total Target Cost and Target Fee under this Contract.
- (d) The Contractor shall maintain separate cost accounts for CLIN 1, and CLIN 2 and/or CLIN 3 if authorized, and separately report each CLIN in all financial and project management requirements under this Contract.
- (e) If DOE does not authorize the Contractor to proceed with CLIN 2 Contract requirements and/or CLIN 3 Contract requirements, the Contractor shall not be entitled to allowable costs, earned fee, partial termination costs, and any other similar items for CLIN 2 and/or CLIN 3, and shall not be entitled to an equitable adjustment to the Target Cost and Target Fee for CLIN 1 as a result of DOE's decision not to authorize CLIN 2 and/or CLIN 3.

B.12 FINAL FEE DETERMINATION

- (a) Upon successful Completion of Contract Requirements, the Contracting Officer shall determine the total fee earned by the Contractor consistent with the provisions of this Contract. If the amount of the total fee earned is less than the total amount of all Schedule Performance Incentive Fee and Interim Fee Payments made to the Contractor, the Contractor shall reimburse DOE the difference. If the amount of total fee earned is more than the total amount of Schedule Performance Incentive Fee and the Interim Fee Payments made to the Contractor, DOE will pay the Contractor the remaining fee due.
- (b) When calculating the Cost Performance Incentive Fee component of the Final Fee Determination, the total allowable costs will exclude Incumbent Employee Pension Costs as provided in paragraph (e) of the Section I Clause entitled *FAR 52.216-10 Incentive Fee*.
- (c) The Final Fee Determination may be reduced in accordance with Clause B.6 *Incentive Fee Calculation*.
- (d) DOE will not owe interest or other surcharges on any amount of fee that is not paid until the Final Fee Determination.

TABLE B.1 INCENTIVE FEE STRUCTURE

Element	Definition/ Reference	CLIN 1		CLIN 2		CLIN 3		Total
		Date	Amount	Date	Amount	Date	Amount	
Cost Performance Incentive Fee (Target Cost, Target Fee, and Cost Share Ratio)								
Target Cost	Section I clause entitled FAR 52.216-10 Incentive Fee, para. (b)(1)		\$1,452,915,310		\$191,452,739		\$149,808,570	\$1,794,176,619
Target Fee	Section I clause entitled FAR 52.216-10 Incentive Fee, para. (b)(2)		\$101,704,072		\$13,401,692		\$10,486,600	\$125,592,363
Estimated Incumbent Employee Pension Costs	Section I clause entitled FAR 52.216-10 Incentive Fee, para. (e)(5)		\$23,327,130		\$3,188,270		\$2,447,608	\$28,963,008
Cost Share Ratio (Government/Contractor)	Section I clause entitled FAR 52.216-10 Incentive Fee, para. (e)		80/20		80/20		80/20	80/20
Schedule Performance Incentive Fee								
Completion of Contract Requirements	Fee earned for completion on or before the dates shown:	3/31/2012	\$25.9M	3/31/2012	\$10.9M	3/31/2012	\$3.2M	\$40.0M
		9/30/2012	\$19.4M	9/30/2012	\$8.2M	9/30/2012	\$2.4M	\$30.0M
		3/31/2013	\$15.5M	3/31/2013	\$6.5M	3/31/2013	\$2.0M	\$24.0M
		9/30/2013	\$7.8M	9/30/2013	\$3.2M	9/30/2013	\$1.0M	\$12.0M
		3/31/2014	\$3.9M	3/31/2014	\$1.6M	3/31/2014	\$0.5M	\$6.0M
		9/30/2014	\$2.6M	9/30/2014	\$1.1M	9/30/2014	\$0.3M	\$4.0M
		3/31/2015	\$1.2M	3/31/2015	\$0.6M	3/31/2015	\$0.2M	\$2.0M
		9/30/2015	Zero	9/30/2015	Zero	9/30/2015	Zero	Zero
Total Maximum Incentive Fee								
Maximum Cost Performance Incentive Fee	Maximum total Cost Performance Incentive Fee that may be earned		\$196,143,567 (13.5% of Target Cost)		\$25,846,120 (13.5% of Target Cost)		\$20,224,157 (13.5% of Target Cost)	\$242,213,844 (13.5% of Target Cost)
Maximum Schedule Performance Incentive Fee	Maximum total Schedule Performance Incentive Fee that may be earned		\$25.9M		\$10.9M		\$3.2M	\$40.0M
Total Minimum Incentive Fee								
Minimum Cost Performance Incentive Fee	Minimum total Cost Performance Incentive Fee that may be earned		Zero		Zero		Zero	Zero
Minimum Schedule Performance Incentive Fee	Minimum total Schedule Performance Incentive Fee that may be earned		Zero		Zero		Zero	Zero

TABLE B.2 SCHEDULE OF QUANTITIES AND TARGET COST

See attached Table B.2